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SMITH'S FOOD & DRUG CENTERS, INC.

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

MAYRA AGUIRRE-ORTIZ,
Plaintiff,

vs.

SMITH'S FOOD AND DRUG STORE a/k/a
KROGER and DOES I-V, and ROE
CORPORATIONS, I-V, inclusive,
Defendants.

CASE NO. 2:20-cv-00009-RFB-BNW

STIPULATION TO EXTEND
DISCOVERY SCHEDULE
(FIRST REQUEST)

Pursuant to LR II 26-4, the stipulation is supported by good cause. The state of emergency and resulting Court orders regarding COVID-19 have impacted the parties' ability to conduct discovery. Specifically, due to truncated office hours, the parties need additional time to secure their respective expert witnesses and additional time for the same to complete their expert reports. In addition, Defendant needs additional time to have Plaintiff execute authorizations for various providers (Plaintiff has agreed to provide the HIPAA authorizations on or before May 22, 2020), to collect the medical records and to provide the records to its experts. Finally, the pandemic has caused delays with procuring dates for certain depositions.

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IT IS HEREBY STIPULATED AND AGREED by and between JOSHUA A. DOWLING, ESQ. of RICHARD HARRIS LAW FIRM, Attorneys for Plaintiff, MAYRA AGUIRRE-ORTIZ, and JERRY S. BUSBY, ESQ. of the law firm COOPER LEVENSON, P.A., Attorneys for Defendant, SMITH'S FOOD & DRUG CENTERS, INC., that certain discovery deadlines in this matter be continued for a period of 60 days to allow the parties additional time to complete discovery, and for the parties to retain and disclose experts.

STATEMENT SPECIFYING THE DISCOVERY THAT HAS BEEN COMPLETED.

1. The parties participated in the Fed. R. Civ. P. 26(f) conference;
2. Both parties have made their disclosures pursuant to Fed. R. Civ. P. 26.1(a)(1).
3. Defendant has served written discovery including interrogatories, requests for admissions, and requests for production of documents.
4. Defendant has deposed Plaintiff.
5. Defendant is awaiting HIPAA authorizations in order to collect Plaintiff's medical records.

A. SPECIFIC DESCRIPTION OF THE DISCOVERY THAT REMAINS TO BE COMPLETED.

1. Designation of Plaintiff's Initial Expert Witnesses;
2. Designation of Defendant's Initial Expert Witnesses;
3. Designation of Plaintiff's Rebuttal Expert Witnesses;
4. Designation of Defendant's Rebuttal Expert Witnesses;
5. Defendant to identify and collect Plaintiff's medical records; and
6. Depositions of Defendant's FRCP 30(b)(6) designees.

In addition to the discovery set forth above, Plaintiff and Defendant intend to depose experts disclosed by either side prior to trial and may need to depose some of Plaintiff's treating physicians.

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**B. REASONS WHY THE DISCOVERY REMAINING WAS NOT COMPLETED
WITHIN THE DEADLINES CONTAINED IN THE DISCOVERY SCHEDULING
ORDER**

The ongoing global pandemic has rendered the availability of expert witnesses to be limited. Defendant needs additional time to have Plaintiff execute authorizations for the various providers prior to the subject incident, collect the medical records and provide them to its Initial Experts.

C. PROPOSED SCHEDULE FOR COMPLETING ALL REMAINING DISCOVERY

As a result of the above, it is requested that the discovery deadlines in this case be continued 60 days from their present deadlines.

1. Discovery Cut-Off Date: The parties jointly propose that the discovery cut-off date be extended 60 days from its present deadline of July 21, 2020 to **Monday, September 21, 2020.**

2. Amending the Pleadings and Adding Parties: The parties do not seek to extend this deadline, but reserve the right to bring an appropriate motion in the future in the unlikely event that new information is found in discovery that creates the need to amend the pleadings.

3. Fed.R.Civ.P. 2(a)(2) Disclosures (Experts): The parties jointly propose that the Initial Expert Disclosure deadline be extended 60 days from its present deadline of May 22, 2020 to **Wednesday, July 22, 2020**; the parties also request that the deadline for rebuttal experts be extended 60 days from its present deadline of June 22, 2020 to **Monday, August 24, 2020.**

4. Interim Status Report: The parties jointly propose that the deadline to file an Interim Status Report be extended 60 days from its present deadline of May 22, 2020 to **Wednesday, July 22, 2020.**

5. Dispositive Motions: In the event that the discovery period is extended from the discovery cut-off date set forth in the proposed Discovery Plan and Scheduling Order, the date for filing dispositive motions shall be extended 60 days from its present deadline of August 20, 2020 to **Tuesday, October 20, 2020.**

6. Pretrial Order: The date for filing the joint pretrial order shall not be later than **Friday, November 20, 2020**, 30 days after the cut-off date for filing dispositive motions. In the event that dispositive motions are filed, the date for filing the joint pretrial order shall be suspended until 30 days

1 after decision on the dispositive motions or until further order of the court. In the further event that the
2 discovery period is extended from the discovery cut-off date set forth in the Discovery Plan and
3 Scheduling Order, the date for filing the joint pretrial order shall be extended in accordance with the
4 time periods set forth in this paragraph.

5 **7. Fed.R.Civ.P. 26(a)(3) Disclosures:** The disclosures required by Fed.R.Civ.P. 26(a)(3),
6 and any objections thereto, shall be included in the joint pretrial order.

7 **8. Alternative Dispute Resolution:** Counsel for the parties certify that they met and
8 conferred about the possibility of using alternative dispute resolution including mediation, arbitration,
9 and/or an early neutral evaluation. The parties have not scheduled any such ADR forum at this point, but
10 agree to reconsider following the disclosure of expert witness reports and after the close of discovery.

11 **9. Alternative Forms of Case Disposition:** The parties certify that they discussed
12 consenting to trial by a magistrate judge or engaging in the Short Trial Program under Fed. R. Civ. P. 73
13 and at present do not consent to either alternative form of case disposition.

14 **10. Electronic Evidence:** The parties certify that they have discussed and intend to use
15 electronic evidence at the trial of this matter and will ensure that said evidence is in an electronic format
16 compatible with the Court's electronic jury evidence display system. At present, the parties have not
17 agreed upon any stipulations regarding the use of electronic evidence but will address this issue again in
18 the Pre Trial Order.

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1 **11. Extensions or Modifications of the Discovery Plan and Scheduling Order:** Any
2 stipulation or motion must be made no later than 21 days before the subject deadline. Requests to
3 extend discovery deadlines must comply fully with LR 26-4.

4 Respectfully submitted this 19th day of May, 2020.

5 RICHARD HARRIS LAW FIRM

COOPER LEVENSON, P.A.

6 /s/ Joshua A. Dowling

/s/ Jerry S. Busby

7 JOSHUA A. DOWLING, ESQ.

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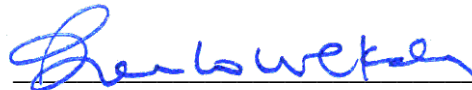
11 Attorneys for Plaintiff

Attorneys for Defendant

12 MAYRA AGUIRRE-ORTIZ

SMITH'S FOOD & DRUG CENTERS, INC.

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14 IT IS SO ORDERED:

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17 UNITED STATES MAGISTRATE JUDGE

18 DATED: 5/20/2020